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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

DATE: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

SUMMARY: The Department of Commerce (the Department) is currently conducting an administrative review of the antidumping duty order on certain preserved mushrooms (mushrooms) from the People's Republic of China (PRC) covering the period of review (POR) February 1, 2011, through January 31, 2012. We preliminarily determine that sales made by Blue Field (Sichuan) Food Industrial Co. (Blue Field) were below normal value (NV). With respect to Duijiangyan Xingda Foodstuff Co., Ltd. (Xingda) and Zhejiang Iceman Group Co., Ltd. /Zhejiang Iceman Food Co., Ltd. (Iceman),¹ these companies failed to establish that they are separate from the PRC-wide entity. As a result, the PRC-wide entity is now under review. We have preliminarily applied adverse facts available ("AFA") to the PRC-wide entity because elements of the entity, Xingda and Iceman, failed to act to the best of their ability in complying with the Department's request for information in this review within the established deadlines and significantly impeded the proceeding. We invite interested parties to comment on these preliminary results.

¹ The Department has found Zhejiang Iceman Food Co., Ltd. should be equated with Zhejiang Iceman Group Co., Ltd. See Certain Preserved Mushrooms From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 76 FR 70112 (November 10, 2011).

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by this antidumping order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. “Preserved Mushrooms” refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Partial Rescission of Review

For those companies named in the Initiation Notice² for which all review requests have been withdrawn and are not part of the PRC-wide entity, we are rescinding this administrative review, in accordance with 19 CFR 351.213(d)(1). The companies for which we are rescinding this review include: (1) Guangxi Jisheng Foods, Inc. (Jisheng), (2) Xiamen International Trade & Industrial Co., Ltd. (XITIC), (3) Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa), and (4) Zhangzhou Gangchang Canned Foods Co., Ltd.³ (Zhangzhou Gangchang).

Intent Not To Rescind Review In Part

We have received withdrawal of review requests for the following companies that remain a part of the PRC-wide entity, which is currently under review: (1) China National Cereals, Oils & Foodstuffs Import & Export Corp. (China National), (2) China Processed Food Import & Export Co. (China Processed), (3) Fujian Pinghe Baofeng Canned Foods (Fujian Pinghe), (4) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd. (Fujian Yuxing), (5) Fujian Zishan Group Co., Ltd. (Fujian Zishan), (6) Guangxi Eastwing Trading Co., Ltd. (Guangxi Eastwing), (7) Inter-Foods (Dongshan) Co., Ltd. (Inter-Foods), (8) Longhai Guangfa Food Co., Ltd. (Longhai Guangfa), (9) Primera Harvest (Xiangfan) Co., Ltd. (Primera Harvest), (10) Shandong Fengyu Edible Fungus Corporation Ltd. (Shandong Fengyu), (11) Sun Wave Trading Co., Ltd. (Sun Wave Trading), (12) Xiamen Greenland Import & Export Co., Ltd. (Xiamen Greenland), (13) Xiamen Gulong Import & Export Co., Ltd. (Xiamen Gulong), (14) Xiamen Jiahua Import & Export Trading Co., Ltd. (Xiamen Jiahua), (15) Xiamen Longhuai

² See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Administrative Review, 77 FR 19179 (March 30, 2012) (Initiation Notice).

³ Zhangzhou Gangchang Canned Foods Co., Ltd., Fujian was found to be the name of the company initially referenced by that party and the Department as Zhangzhou Gangchang Canned Foods Co., Ltd. See Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews 74 FR 14772 (April 1, 2009) unchanged at Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews 74 FR 28882 (June 18, 2009).

Import & Export Co., Ltd. (Xiamen Longhuai), and (16) Zhangzhou Long Mountain Food Co., Ltd. (Zhangzhou Long Mountain) and (17) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd. (Zhangzhou Golden Banyan).⁴

For those companies named in the Initiation Notice⁵ for which all review requests have been withdrawn, but which have not previously received separate rate status, the Department's practice is to refrain from rescinding the review with respect to these companies at this time. As explained above, requests for review of several companies belonging to the PRC-wide entity were timely withdrawn. While the requests for review were timely withdrawn, the companies remain part of the PRC-wide entity. The PRC-wide entity is under review for these preliminary results. Therefore, at this time, we are not rescinding this review with respect to those companies belonging to the PRC-wide entity for which a request for review has been withdrawn.

Preliminary Determination of No Shipments

The following companies submitted timely certifications of no shipments during the POR: (1) Guangxi Hengyong Industrial & Commercial Dev., Ltd. (Guangxi Hengyong), (2) Zhangzhou Tongfa Foods Industry Co., Ltd (Zhangzhou Tongfa), (3) Zhangzhou Hongda Import & Export Trading Co., Ltd. (Zhangzhou Hongda), and (4) Golden Banyan. Based on the no-shipment certifications and our analysis of the CBP information, we preliminary determine that Guangxi Hengyong, Zhangzhou Tongfa, Zhangzhou Hongda, and Golden Banyan did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy (NME)

⁴ The Department considers Zhangzhou Golden Banyan to be distinct from another company with a similar name for which a review was requested, Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. (Golden Banyan). In the immediately-preceding review, the Department calculated a separate rate for Golden Banyan, while it considered Zhangzhou Golden Banyan to remain a part of the PRC-wide entity. See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 55808 (September 11, 2012).

⁵ See Initiation Notice, 77 FR 19179.

cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to Guangxi Hengyong, Zhangzhou Tongfa, Zhangzhou Hongda, and Golden Banyan and issue appropriate instructions to CBP based on the final results of the review.⁶

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Because the PRC is an NME within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. Specifically, the respondent's factors of production have been valued using Colombian prices (when available); Colombia is economically comparable to the PRC and a significant producer of comparable merchandise. For a full description of these surrogate values and the methodology underlying our conclusions, please see the memoranda entitled "Memorandum for the Preliminary Results in the Administrative Review: Certain Preserved Mushrooms from the People's Republic of China" (Preliminary Results Decision Memorandum) and "Certain Preserved Mushrooms from the People's Republic of China: Surrogate-Value Memorandum" both of which are dated concurrently with this notice and incorporated herein by reference. The Preliminary Results Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Results Decision Memorandum can be accessed directly on

⁶ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

the internet at <http://www.trade.gov.ia>. The signed and electronic versions of the Preliminary Results Decision Memorandum are identical in content.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period February 1, 2011, through January 31, 2012:

Exporter	Weighted-Average Margin (Percent)
Blue Field (Sichuan) Food Industrial Co.	102.11
PRC-wide entity ⁷	308.33

Disclosure and Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.⁸ Interested parties may submit written comments no later than 30 days after publication of the preliminary results. Rebuttals to written comments may be filed no later than five days after the written comments are filed.⁹

Any interested party may request a hearing within 30 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case briefs. If a request for a hearing is

⁷ The PRC-wide entity includes, among other companies: Dujiangyan Xingda Foodstuffs Co., Ltd., (Xingda) Ayecue (Liaocheng) Foodstuffs Co., Ltd. (Ayecue), Shandong Jiufa Edible Fungus Corporation, Ltd., (Shandong Jiufa), and Zhejiang Iceman Group Co., Ltd. (Iceman).

⁸ See 19 CFR 351.224(b).

⁹ See 19 CFR 351.309(c) and (d).

made, parties will be notified of the date and time for the hearing to be held at the U.S.

Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.¹⁰

The Department intends to issue the final results of this administrative review, including the results of our analysis of the issues raised in any such comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production (FOPs) under 19 CFR 351.408(c) is 20 days after the date of publication of these preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.¹¹ Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.¹²

¹⁰ See 19 CFR 351.310(c).

¹¹ See, e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, In Part, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

¹² See 19 CFR 351.301(c)(3).

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For any individually examined respondents whose weighted-average dumping margin is above de minimis, we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).¹³

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above de minimis. Where either the respondent's weighted-average dumping margin is zero or de minimis, or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended

¹³ In these preliminary results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁴

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Blue Field, will be that established in the final results of this review (except, if the rate is zero or de minimis, then zero cash deposit will be required); (2) for any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (i.e., 308.33 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior

¹⁴ For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011)

to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Paul Piquado
Assistant Secretary
for Import Administration

March 4, 2013
Date

Appendix

List of Topics Discussed in the Preliminary Results Decision Memorandum

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22. [FR Doc. 2013-05643 Filed 03/11/2013 at 8:45 am; Publication Date: 03/12/2013]